

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

VICTOR MANUEL CAMPOS-LOPEZ,

Defendant and Appellant.

G058471

(Super. Ct. No. 16CF3014)

ORDER MODIFYING OPINION;
NO CHANGE IN JUDGMENT

It is ordered that the opinion filed in this case on July 23, 2020, be modified as follows:

On page one, in the case title, delete defendant's last name CAMPOS LOPEZ and replace it with the following: CAMPOS-LOPEZ.

On page two, in the first sentence of the first paragraph delete defendant's last name Campos Lopez and replace it with the following: Campos-Lopez.

FYBEL, J.

WE CONCUR:

MOORE, ACTING P. J.

GOETHALS, J.

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(Super. Ct. No. 16CF3014)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, John Conley, Judge. Affirmed.

Siri Shetty, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent

* * *

1. Introduction

Victor Manuel Campos Lopez (Defendant) filed a notice of appeal from a judgment entered following a jury verdict convicting him on six counts of various sex offenses. His appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) setting forth the facts of the case and requesting that we review the entire record. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel identified three issues to assist us in conducting our independent review. Defendant was granted 30 days in which to file a supplemental brief on his own behalf. He has not filed a supplemental brief.

We have reviewed counsel's *Wende/Anders* brief and have examined the record in accordance with our obligations under *Wende* and *Anders*. None of the issues suggested by counsel has merit. We therefore affirm.

2. Jury Verdict and Sentence

A jury convicted Defendant, as charged by amended information, of one count of continuous sexual abuse (Pen. Code, § 288.5, subd. (a) [count 1]), two counts of lewd act upon a child (*id.*, § 288, subd. (c)(1) [counts 2 and 3]), one count of sexual battery by restraint (*id.*, § 243.4, subd. (a) [count 4]), and two counts of lewd act upon a child under the age of 14 (*id.*, § 288, subd. (a) [counts 5 and 6]). The victims were X.O. for counts 1 through 4, L.C. for count 5, and D.T. for count 6. The jury also found true an allegation the offenses charged in counts 1, 5, and 6 were committed against more than one victim and the victim was a minor under 14 years of age. (*Id.*, § 667.61, subds. (j)(2), (e)(4).)

Defendant was sentenced to a term of 25 years to life on counts 1, 5, and 6 with a consecutive three-year term on count 2. He also received concurrent three-year terms on counts 3 and 4.

3. Facts

In 2016, Defendant was married to S.C., and they had two children together. From prior relationships, S.C. had four children, among whom were daughters X.O. (born in July 2000), L.C. (born in February 2003), and D.T. (born in April 2005). All of them lived together in an apartment.

a. *Offenses Against X.O. (Counts 1 Through 4)*

When X.O. was 9 or 10 years old, Defendant began touching her breasts and vagina both over and under her clothing. He also would force her to kiss him. This conduct continued almost daily until she was 12. On X.O.'s thirteenth birthday, Defendant put his hard penis into X.O.'s vagina. He would do this once or twice a week. Defendant put his hands down her pants and licked and placed his fingers in her vagina. This conduct continued almost daily until Defendant was arrested, when X.O. was 16 years old.

L.C. once saw Defendant place money in X.O.'s breasts and saw him squeeze X.O.'s thigh. L.C. at times saw X.O. struggling with Defendant in her bed. D.T. saw Defendant grab X.O.'s buttocks while X.O. was sleeping. D.T. and L.C. would tell Defendant to leave X.O. alone.

L.C. told S.C. about what Defendant had done to X.O. X.O. confirmed that Defendant had abused her. X.O. and S.C. came up with a plan to use a secret recording device to get Defendant to make admissions and incriminating statements. On November 25, 2016, X.O. and L.C. placed a recording device in the kitchen. Defendant returned home, he and X.O. talked, and the conversation was captured on the recording device.

After Defendant and X.O. had talked for about an hour, he began touching her. In the bathroom, Defendant removed X.O.'s pants, tried to put his penis in her vagina, kissed her mouth, and kissed and touched her breasts. X.O. repeatedly told Defendant to stop, but he told her to be quiet and relax. He said "Let me enjoy everything." At some point they moved to the laundry room. L.C. walked into the

laundry room and saw X.O against a wall and Defendant, on his knees, orally copulating her. So as not to make Defendant “freak out,” X.O. acted as though nothing happened and said ““I was just putting on a shirt.””

Law enforcement was contacted. X.O. underwent a sexual assault examination. X.O told the forensic nurse that Defendant had kissed her cheek, licked her cheek and neck, attempted to pull down her clothing, inserted a couple of fingers into her vagina, licked her genitalia and breasts, and pressed his penis against her genital area. The forensic nurse thoroughly examined X.O. and found no injuries from sexual assault. X.O. was swabbed in the areas in which she said Defendant had touched or licked her. Defendant could not be excluded as a source of DNA found on X.O.’s right and left breast sample. A low level of amylase, which is consistent with saliva, was also found. Defendant’s DNA was not found on the sample taken from X.O.’s vulva.

b. Offenses Against L.C. (Count 5)

L.C. testified to two incidents in which Defendant touched her inappropriately. When L.C. was 11 or 12 years old, as she was watching television, Defendant started talking to her about CPR. L.C. said she wanted to leave the room but Defendant told her to lie flat on the bed. He talked more about CPR and then placed his lips on her mouth for about 30 seconds. Although L.C. kept her mouth shut, she could feel Defendant’s tongue moving against her lips.

The second incident occurred when L.C. was 13 years old. Defendant was in the bedroom he shared with S.C. and told L.C. to come in. Defendant, who was sitting on the edge of the bed, wrapped his legs around L.C., threw himself back, turned, and laid her on the bed. He kissed her neck, lifted up her shirt and started licking her stomach. He licked her lower and lower and pulled her pants down, but, before he could reach her vagina, L.C. kicked him and left the room. Defendant did not try to lick L.C.’s stomach again. Also when L.C. was 13, Defendant told her to kiss him on the cheek. As

she approached to kiss him, he turned so that she would kiss him on the mouth. She recoiled and did not kiss him at all.

c. Offenses Against D.T. (Count 6)

Sometime before 2016, Defendant touched the inside of D.T.'s thighs and her vagina over her clothing. Defendant touched D.T.'s vagina more than 5 times.

4. Discussion

Defendant's counsel has identified three potential issues: (1) whether the trial court erred by denying defense counsel's request for discovery of statements that L.C. made to her victim advocate; (2) whether the trial court erred by denying Defendant's motion to admit evidence of X.O.'s sexual conduct under Evidence Code sections 782 and 1103; and (3) whether substantial evidence supported the conviction for sexual battery by restraint charged in count 4. None of these issues has merit.

We have examined the record in accordance with our obligations under *Wende* and *Anders*, and we find no arguable issues on appeal. Defendant himself has not filed a supplemental brief raising any issues for our review. (*People v. Kelly* (2006) 40 Cal.4th 106, 110, 120, 124.)

5. Disposition

The judgment is affirmed.

FYBEL, J.

WE CONCUR:

MOORE, ACTING P. J.

GOETHALS, J.